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In re Application of	:	
Harvey et al.	:	
Application No.: 10/509,706	:	DECISION
PCT No.: PCT/CA03/00717	:	
Int. Filing Date: 16 May 2003	:	ON
Priority Date: 16 May 2002	:	
Attorney Docket No.: 47220.7	:	PETITION
For: Wind Turbine With Hydrostatic Transmission	:	

This is in response to the "Response To Decision On Petition - 37 CFR 1.47(a)" filed on 17 April 2006.

DISCUSSION

In a decision mailed on 17 February 2006, the petition under 37 CFR 1.47(a) filed on 02 December 2005 was dismissed without prejudice because

In the "Affidavit Under 37 CFR 1.47," Alexander S. Harvey states that "A copy of the application papers including a declaration and the patent specification were forwarded to both inventors and have been subsequently signed by Alexander S. Harvey," and that "Application papers were sent to the home address of Mr. David McConnell" on June 2, 2005. It is unclear whether these statements, appearing in paragraphs 7 and 8 of the "Affidavit..." refer to the same correspondence, or whether correspondence was sent to Mr. McConnell on two separate occasions. Moreover, although Mr. Harvey states that the 02 June 2005 correspondence was "sent by courier to Mr. David McConnell," no evidence is presented on the point of whether the courier actually delivered the correspondence. Also, it appears that the correspondence in question may have been sent by Mr. Yoo, rather than Mr. Harvey; if this is the case, applicants are reminded that all statements should be made on the basis of first-hand knowledge rather than hearsay. In any renewed petition, counsel should present any available evidence pertaining to the issue of whether the courier actually delivered the parcel in question.

The instant submission includes a declaration document executed by both of the inventors and otherwise in compliance with the requirements of 37 CFR 1.497(a) and (b). As such, the petition under 37 CFR 1.47(a) is moot.

DECISION

The declaration filed on 17 April 2006 is ACCEPTED.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 17 April 2006.

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